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Filing date: **05/18/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91198483
Party	Plaintiff PsyBar LLC
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Submission	Other Motions/Papers
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Date	05/18/2011
Attachments	Opp. No. 91198483 Amended Notice of Opposition.pdf (3 pages)(108932 bytes) Opp. No. 91198483 Attachment to Amended Notice of Opposition.pdf (3 pages)(75443 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PsyBar, LLC,

Opposer,

v.

David Mahony, PhD.,

Applicant.

Opposition No.: 91198483

Serial No.: 85095429

AMENDED NOTICE OF OPPOSITION

Opposer, PsyBar, LLC, a Minnesota limited liability corporation with a business address of 5151 Edina Industrial Boulevard, Suite 675, Edina, MN 55439, hereby opposes registration of the mark PSYBARI that is the subject of application Serial No. 85/085,429, published in the Official Gazette of January 11, 2011, and requests that registration to Applicant be refused.

As grounds in support of its opposition, Opposer asserts as follows:

1. Opposer for many years has adopted and continuously used the term PSYBAR to promote the services offered through PsyBar, LLC. These services include, but are not limited to, providing scientific consultation, providing expert opinion, providing psychological assessment, analysis, testing, examination, evaluation of psychological and psychiatric tests, training and educating psychological examiners, vocational assessment, forensic assessment, and online education.
2. Opposer is the owner of Registration No. 1998368 for the mark PSYBAR for providing scientific consultation to the legal community, namely providing expert witness testimony, voir dire and scientific jury selection advice, and litigation strategy services. This registration is valid, subsisting, unrevoked, uncanceled, and enjoys the benefits of an incontestable mark. A true and accurate copy of this Registration is attached to this Amended Notice of Opposition.

These scientific consulting services rely upon and include psychological and psychiatric evaluations, and administering and evaluating psychological and psychiatric tests.

3. Opposer, PsyBar, LLC, has used the mark PSYBAR at least as early as January 25, 2002 to identify the services of providing personality and other psychological testing for psychological purposes; providing psychological profiles and psychological record analysis and assessments; providing custom tailored reports about recommended resources and treatments associated with a defined set of symptoms and concerns; psychological assessment services; psychological testing; and psychological testing services.
4. Applicant, David Mahony, has filed an application to register the mark PSYBARI for personality testing for psychological purposes; providing psychological profiles and psychological record analysis and assessments via a website that are designed to provide custom tailored outputs about recommended resources and treatments associated with a defined set of symptoms and concerns; psychological assessment services; psychological testing; psychological testing services; and psychological tests. That application was filed on July 28, 2010 and was assigned Serial No. 85/095,429.
5. Applicant's mark so resembles Opposer's previously used mark PSYBAR and registered mark PSYBAR as to be likely, when applied to the goods or services set forth in Applicant's application, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.
6. Applicant's mark points uniquely and unmistakably to the identity and/or persona of PsyBar, LLC in that: (1) Applicant's mark is the same or a close approximation of PsyBar, LLC's previously used name and/or identity; (2) Applicant's mark would be recognized as the same as, or a close approximation of PsyBar, LLC; (3) PsyBar, LLC is not connected with the activities performed by Applicant under the mark; and (4) PsyBar, LLC's name and/or identity is of sufficient fame or reputation that when Applicant's mark is used on his goods, a connection with PsyBar, LLC would be presumed. All of these allegations support a claim of false suggestion of a connection in violation of Section 2(a) of the Trademark Act.

WHEREFORE, Opposer prays that the opposition be sustained and that registration to Applicant be refused.

Respectfully Submitted,
PSYBAR, LLC

Dated: May 18, 2011

By: /s/ James J. Kretsch, Jr.

James J. Kretsch, Jr. (ID #0244399)
Opposer's attorney
(952) 832-5500

I hereby certify that a true and complete copy of the foregoing Amended Notice of Opposition has been served on Applicant, David Mahony, PhD., by e-mailing said copy on May 18, 2011, via e-mail address: drdavidmahony@gmail.com.

/s/ James J. Kretsch, Jr.
James J. Kretsch, Jr.

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-05-18 11:34:50 ET

Serial Number: 75003269 Assignment Information Trademark Document Retrieval

Registration Number: 1998368

Mark

PsyBar

(words only): PSYBAR

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2006-11-13

Filing Date: 1995-10-10

Transformed into a National Application: No

Registration Date: 1996-09-03

Register: Principal

Law Office Assigned: LAW OFFICE 109

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 830 -Post Registration

Date In Location: 2006-11-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. PSYBAR, LLC

Address:

PSYBAR, LLC
5151 EDINA INDUSTRIAL BLVD. #675
EDINA, MN 55439
United States
Legal Entity Type: Limited Liability Company
State or Country Where Organized: (NOT AVAILABLE)

GOODS AND/OR SERVICES

International Class: 042
Class Status: Active
providing scientific consultation to the legal community, namely providing expert witness testimony, voir dire and scientific jury selection advice, and litigation strategy services
Basis: 1(a)
First Use Date: 1995-06-22
First Use in Commerce Date: 1995-06-22

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2006-11-13 - First renewal 10 year

2006-11-13 - Section 8 (10-year) accepted/ Section 9 granted

2006-10-26 - Assigned To Paralegal

2006-08-23 - Combined Section 8 (10-year)/Section 9 filed

2006-08-23 - PAPER RECEIVED

2006-06-27 - Case File In TICRS

2003-07-02 - TEAS Change Of Correspondence Received

2002-04-22 - Section 8 (6-year) accepted & Section 15 acknowledged

2002-02-19 - Section 8 (6-year) and Section 15 Filed

1996-09-03 - Registered - Principal Register

1996-06-11 - Published for opposition

1996-05-10 - Notice of publication

1996-03-20 - Approved for Pub - Principal Register (Initial exam)

1996-03-19 - Examiner's amendment mailed

1996-03-04 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

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